

Decision for the Humboldt River Field Office Effective Immediately

Owyhee Complex Herd Management Area Gather Final Environmental Assessment DOI-BLM-NV-W010-2012-0055-EA

INTRODUCTION

The Little Humboldt, Little Owyhee, Owyhee, Rock Creek, and Snowstorm Mountains Herd Management Areas (HMAs), collectively referred to as the Owyhee Complex, are located 50 miles north east of Winnemucca, in the northeast corner of Humboldt County and the northwest corner of Elko County, Nevada. The gather area is within the administrative boundaries of the Bureau of Land Management (BLM) Winnemucca District (WD), Humboldt River Field Office (HRFO), and Elko District, Tuscarora Field Office (TFO).

This Decision is applicable only to the Little Owyhee and Snowstorm Mountains HMAs managed by the HRFO. The TFO will issue a separate decision for the Little Humboldt, Owyhee, and Rock Creek HMAs.

The Owyhee Complex consists of approximately 1,055,023 total acres, but the gather area consists of approximately 2,047,281 acres, which encompasses additional lands where wild horses are residing outside of the Owyhee Complex. Wild horses have moved outside of the HMAs in search of forage, water, and space due to the current over-population of wild horses in this area as well as the current drought conditions. The HRFO has been hauling and pumping water to four separate locations both inside and outside HMA boundaries since the beginning of August 2012 to ensure wild horses have access to adequate water (DOI-BLM-NV-W010-2012-0053-CX). Due to wild horses concentrating near limited available water sources the range resource is being negatively impacted. This is reflected in degraded range conditions in and outside the Little Owyhee and Snowstorm Mountains HMAs and declining wild horse health. Although the BLM has been hauling and pumping water, this is not sufficient to maintain the overall health of the herds at their current population levels and is only a stop-gap measure until the excess horses can be removed from the range.

The population of wild horses within the gather area is approximately 2,267 wild horses based on population inventories conducted in September 2012. For the Little Owyhee HMA the estimated population of wild horses is approximately 1,097 which exceeds its low AML of 194 by 903 wild horses and is about 5 times higher than low AML and 3 times higher than high AML. For the Snowstorm Mountains HMA the estimated population of wild horses is approximately 537 which exceeds its low AML of 90 by 447 wild horses and is about 6 times higher than low AML and 4 times higher than high AML.

The HRFO proposes to adopt the wild horse management strategy outlined in Alternative A in the Owyhee Complex Herd Management Area Gather Final Environmental Assessment. Alternative A includes a phased-in management strategy to remove excess wild horses, implement fertility control, and adjust sex ratios to 60% male population of the herd over several gathers to eventually reach low AML. The initial gather would result in the removal of

approximately 800 excess horses, focusing on those areas where the health and well-being of the wild horses and rangeland health are at greatest risk and are a priority for removal of excess horses. Follow-up gather activities, potentially as early as Summer 2013, will be used to remove additional excess horses and implement the fertility control measures. A helicopter gather would be the primary gather mechanism; however, the use of water/bait trapping may be used in this phased management strategy as a supplementary gather technique to assist in bringing the herd population to within established AML range. Due to funding, holding space limitations, and gather efficiency constraints, it will take multiple gathers over a 10 year period to achieve the low range of AML and desired population growth reduction goals. Gather dates and numbers will be posted on the BLM National Gather Schedule. AML for these two HMAs has been established as a range of 284-438. The initial gather would begin on or about November 18, 2012 and take approximately 30 days to complete.

Due to drought conditions within the WD and HRFO, I issued drought letters to all livestock permittees and interested publics within the WD on February 10, March 2, and July 30, 2012, and sought their voluntary efforts to adjust their livestock operations based on drought. Grazing permittee's within the HMAs have voluntarily reduced livestock numbers, delayed turnout and removed livestock earlier than normal from pastures/use areas because of a lack of forage and water and impacts of excess wild horses to rangeland resources within and outside of the HMAs.

COMPLIANCE/CONFORMANCE

I have determined that the Alternative A is in conformance with:

All applicable regulations at 43 CFR (Code of Federal Regulations) §4700 and policies, as well with the 1971 Wild Free Roaming Horses and Burros Act. More specifically, this action is designed to remove excess wild horses consistent with the following regulation:

43 CFR §4720.1: *"Upon examination of current information and a determination that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately..."*

The Paradise-Denio Resource Area Management Framework Plan (MFP) approved July 9, 1982.

The wild horse and burro section of the Paradise-Denio ROD, July 1982, Plan and Implementation consists of the integration of the Proposed Actions and the Livestock Reduction/Maximizing Wild Horses and Burros Alternative with the following modifications:

4. Wild horse and burro herds will be maintained in the areas described in the Livestock Reduction/Maximizing Wild Horse and Burro Alternative. However, numbers will be determined by the following criteria: Existing/current WH&B numbers (as of July 1, 1982) will be used as a starting point for monitoring purposes except where one of the following exists:
 - a. Numbers are established by adequate and supportable resource data.
 - b. Numbers are established through the CRMP process as documented in CRMP recommendations and agreed to by the District Manager.

- c. Numbers are established by formal signed agreement between affected interests.
- d. Numbers are established through previously developed interim capture/management plans. Plans are still supportable by parties consulted in the original plan. EA's (EAR's) were prepared and are still valid.
- e. Numbers are established by court order.

The following is Wild Horse and Burro Objective 1 from the Paradise-Denio MFP, 1982:

WHB-1: Maintain wild horses and burros on public lands, where there was wild horse or burro use as of December 15, 1971, and maintain a natural ecological balance on the public lands.

Alternative A is consistent with the plans and policies of neighboring local, county, state, tribal and federal governments to the greatest extent practical. Under Alternative A, no federal, state, or local law, or requirement imposed for the protection of the environment will be threatened or violated.

Alternative A is in conformance with the Standards and Guidelines for Management of Wild Horses and Burros of the Sierra Front-Northwestern Great Basin Area.

DECISION

Based on the Owyhee Complex Wild Horse Gather Plan Final Environmental Assessment (EA), DOI-BLM-NV-W010-2012-0055-EA, and the attached Finding of No Significant Impact (FONSI), it is my decision to implement Alternative A for the Little Owyhee and Snowstorm Mountains HMAs as described in the EA to provide for an initial gather beginning on or about November 18, 2012.

This Decision constitutes my final decision to gather and remove excess wild horses from within the Little Owyhee and Snowstorm Mountains HMAs that are managed by the HRFO and to remove wild horses from non-HMA areas to which wild horses from the HMAs have moved due to population pressures, and to manage the public lands within the gather area for a thriving natural ecological balance (TNEB).

Subsequent gathers to implement the phased-in management approach of reaching low AML and maintaining AML will be conducted as described in the EA under the Alternative A. A Notice of Proposed Action (NOPA) will be issued 30 days in advance for subsequent gathers occurring within Wilderness Study Areas.

Pursuant to the criteria set forth at 43 CFR 4770.3(c), this decision is effective immediately.

RATIONALE

Upon analyzing the impacts of all the Action Alternatives and following issuance of the EA for public review, I have determined that Alternative A will not have a significant impact to the human environment, and that an Environmental Impact Statement is not required. Refer to the attached FONSI.

Removal of excess wild horses from the gather area is necessary to achieve a TNEB between wild horse populations, wildlife, livestock, vegetation, and the available water as mandated under Section 3(b) (2) of the Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA) and consistent with section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976. A gather of wild horses from the area is also necessary to prevent unnecessary death of individual wild horses that are being currently impacted by a lack of water and forage due to drought conditions.

Alternative A will prioritize removal of excess wild horses from those areas where extreme conditions exist or are emerging, and will use a phased-in approach in the remainder of the gather area to reach and maintain AML over a ten year period by removing excess animals, implementing fertility control and adjusting sex ratios over several gathers.

The gather will:

- Promote vegetative health by preventing over utilization and/or use by wild horses during critical growth periods for perennial grasses in the upland, wetland and stream bank riparian habitats associated with the Owyhee Complex;
- Decrease resource competition for space, forage and water among wild horses, wildlife, and livestock;
- Although impacts would still occur through wild horse and livestock grazing, removal of excess wild horses will contribute to improved vegetation density, increased plant vigor, seed production, seedling establishment, and forage production over current conditions by reducing grazing pressures caused by excess wild horse numbers;
- Slow wild horse population growth rates through implementation of the phased-in gather and fertility control treatment and sex ratio modification which could extend the amount of time between gathers to remove excess horses as required under the WFRHBA; and
- Preserve the health and wellbeing of those animals removed from the range as well as the wild horses that will remain within the Owyhee Complex.

Through the phased management approach to remove excess wild horses to low range AML over multiple gathers, immediate implementation of fertility control treatments, and adjustment of sex ratios of the released wild horses, the HMAs managed by the HRFO within the Owyhee Complex will have a slowed population growth, reduced numbers of wild horses needing to be removed through future gathers, decreased numbers of excess wild horses placed in short or long term holding or offered for adoption or sale over the next ten years, and potentially increase the time period before another gather is necessary once the proposed action has been completed. The phased removal to low-end AML of excess wild horses from the gather area will ease pressure on short-term and long-term holding facilities that may have insufficient capacity to handle all of the excess wild horses if removed in a single gather, and will also provide a greater likelihood that a sufficient gather efficiency can be achieved to apply fertility controls to a larger segment of the wild horse population that remains post-gather.

Managing wild horses at the established AML through this phased approach will also maintain genetic health and long-term viability of the herds. Reduced growth rates and lower population sizes will also allow for improvements to range condition, with long-term benefits to wild horse habitat quality, and will allow BLM to manage wild horses at a level that will ensure a TNEB.

The action is in compliance with the WFRHBA by achieving the established AML, restoring a TNEB and preventing degradation of rangeland resources resulting from an overpopulation of wild horses. This assessment is based on factors including, but not limited to the following rationale:

- Based on the population inventory completed September 2012, the population of wild horses within the HRFO managed gather area is approximately 1,634 adult animals; which is 1,350 wild horses in excess of the low range AML of 284 or 1,196 wild horses in excess of the high range AML of 438.
- Once wild horse populations are at low AML and are being managed within the AML range, BLM will be able to collect the resource monitoring data necessary to determine if wild horses are causing impacts that lead to non-attainment of Standards for Rangeland Health in the allotments within the HMAs, requiring downward adjustments to the AML or whether an upward adjustment to AML can be made while still maintaining rangeland health;
- Wild horses have moved onto public lands that fall outside of designated HMA boundaries, indicating the presence of excess wild horses as they search for additional habitat outside the HMAs. Under regulations at 43 CFR §4710.4, BLM is required to manage wild horses within their HMAs and to remove wild horses that take up residence outside of HMA boundaries.
- Water is a limited resource within the Little Owyhee and Snowstorm Mountains HMAs and becomes a limiting factor when wild horse populations exceed high range AML. There are several small springs and seeps in the Little Owyhee and Snowstorm Mountains HMAs that are ephemeral and dependent on yearly precipitation. Available water is unreliable and often unavailable as water sources recharge from past years of drought. Range improvements are present in the HMAs but most are dependent on variable spring flows. Many of these range improvements are wells, which are only run while livestock are present and which the livestock operator owns the water rights to. The BLM does not hold any water rights on these wells for wild horses.

The following constitutes the rationale for making this decision effective upon issuance:

1. Necessity of Prompt Removal of Excess Wild Horses

With the collaborative effort to uniformly gather the entire Owyhee area, BLM seeks to increase the gather efficiency and more effectively bring the wild horse populations in that landscape down to low range AML. A delay of the gather in the Little Owyhee and Snowstorm Mountains HMAs and inability to coordinate the gather with that of the Elko District (Little Humboldt, Owyhee, and Rock Creek HMAs) will create a situation similar

to the last gather where gather efficiencies were reduced due to seasonal movements within and outside the HMAs and winter storm conditions .

There is a need to immediately remove excess wild horses prior to January 1 due to conditions that have developed in certain portions of the gather areas, to prevent suffering and death of individual animals that are showing declining body condition due to a lack of water and forage. The HRFO has been hauling and pumping water to four separate locations both inside and outside HMA boundaries since the beginning of August 2012 to ensure wild horses have access to adequate water (DOI-BLM-NV-W010-2012-0053-CX). Due to wild horses concentrating near limited available water sources the range resource is being negatively impacted. This is reflected in degraded range conditions in and outside the Little Owyhee and Snowstorm Mountains HMAs and declining wild horse health. Although the BLM has been hauling and pumping water, this is not sufficient to maintain the overall health of the herds at their current population levels and is only a stop-gap measure until the excess horses can be removed from the range.

2. Potential Damage to Rangeland and Riparian Resources

Wild horse population and resource monitoring data shows that current wild horse populations are exceeding the range's ability to sustain them over the long-term. Wild horses are now residing outside the HMAs as more wild horses compete for limited forage, space and water resources. Resource damage is occurring and will continue without immediate action. Riparian areas are receiving heavy utilization and trampling impacts.

Alternative A is in conformance with the Standards and Guidelines for Management of Wild Horses and Burros of the Sierra Front-Northwestern Great Basin Area.

In accordance with 43 CFR §4720.1, upon examination of current information, I have determined that an excess of wild horses also exists outside the HMA boundaries, and that the excess animals should be removed.

I selected implementation of Alternative A over the Alternatives B and C for the following reason:

While the phased approach described in Alternative A means leaving more wild horses on the ground in the short term, it allows for removal of excess horses in those areas where overpopulation pressures and impacts are greatest, and allows for a more comprehensive approach to management by using a longer-term perspective. Alternative A provides a greater opportunity to decrease the annual growth rate and reduce the necessity for, and frequency of, future gathers through the phased-in gather approach for removing excess wild horses and applying fertility control treatments over the next 10 years. Additionally, Alternative A was chosen over Alternative B due to funding and holding space limitations. Removal of excess wild horses in the initial gather will target those areas hardest hit by drought conditions where the health of the wild horses may already be compromised. Based on site visits in October 2012, these areas are primarily in the south end of the Little Owyhee HMA due to severe drought conditions.

I selected implementation of Alternative A over the No Action for the following reason (EA at Chapter 4.17.5 Wild Horses):

Under the No Action alternative, AML will not be achieved within the HMAs and wild horses will not be removed from areas outside of the boundaries of designated HMAs, which removal is mandated by the WFRHBA. Maintaining the current numbers of excess wild horses on the range and augmented by yearly population growth, would result in continued impacts to wildlife/wild horse populations and habitats. Wild horse populations would increase by about 15-25%. Upland habitats would continue to see locally heavy levels of utilization associated with wild horse use which would expand as wild horse populations continue to grow. The associated decrease in herbaceous vegetation would reduce wildlife forage availability and quality, decreasing population levels. Wildlife habitat would also continue to be impacted by the physical action of wild horse movement.

Continued heavy grazing or trampling would occur on spring meadow systems. The result would be to decrease water availability, leading to increased competition for this critical resource. Habitats associated with wetland and riparian areas would remain degraded due to removal of residual stubble height and compaction, leading to increased disturbance and levels of bare ground. Based on spring inventory assessments, increasing wild horse populations would continue to concentrate and trample riparian areas, thereby degrading riparian habitats and the important functions these sites represent for many wildlife species.

These described impacts would affect sage grouse preliminary priority habitat and general priority habitat. They would also affect the wilderness character of the two Wilderness Study Areas within the HRFO managed portion of the gather area.

In accordance with 43 CFR §4720.1, upon examination of current information, I have determined that excess wild horses exist outside the HMA boundaries, and that those excess wild horses should be immediately removed. I have also determined that immediate and follow-up action over the next 10 years is necessary to bring the wild horse population within the Little Owyhee and Snowstorm Mountains HMAs to back to low AML and to implement population control measures in order to maintain or improve rangeland resources and to achieve a thriving natural ecological balance.

PUBLIC INVOLVEMENT

Consultation and Coordination in Development of Preliminary EA

On-going consultation with Resource Advisory Councils (RACs), the Nevada Department of Wildlife, U.S. Fish and Wildlife Service, livestock operators and others, underscores the need for BLM to maintain wild horse populations within AML.

Issues identified in the EA at Chapter 1.4 were identified during internal scoping on August 21, 2012.

Public hearings are held annually on a state-wide basis regarding the use of motorized vehicles in the management of wild horses (or burros) (inventory, gather operations, and transport). During these meetings, the public is given the opportunity to present new information and to voice any concerns or opinions regarding the use of motorized vehicles in the management of wild horses and burros. The Carson City District Office held the 2012 Nevada state-wide hearing on May 29, 2012.

The BLM has been gathering excess wild horses and burros from public lands since 1975, and has been using helicopters for such gathers since the late 1970's. Refer to Appendix A of the Owyhee Complex Wild Horse Gather Environmental Assessment for information about methods that are utilized to reduce injury or stress to wild horses and burros during gathers. Since 2004, BLM Nevada has gathered over 40,000 excess animals. Of these, gather related mortality has averaged 0.5%, which is very low when handling wild animals. Another 0.6% of the animals captured were humanely euthanized due to pre-existing conditions and in accordance with BLM policy. This data confirms that appropriate use of helicopters and motorized vehicles are a safe, humane, effective and practical means for gathering and removing excess wild horses and burros from the range. BLM policy prohibits the gathering of wild horses with a helicopter (unless emergency conditions exist) during the period of March 1 to June 30 which includes and covers the six weeks that precede and follow the peak of foaling (mid-April to mid-May).

Preliminary EA

The Preliminary Owyhee Complex Herd Management Area Gather Plan EA #DOI-BLM-NV-W010-2012-0055-EA was made available to interested individuals, agencies and groups for a public review and comment period that opened on September 7, 2012, and closed October 9, 2012. This interested party list included approximately 156 individuals, organizations, county officials, and state and federal agencies. Among these was the Nevada State Clearinghouse which made the interested party letter available for review by 50 different local, county, state, and federal agencies from around the state. The EA and associated documents were also available from the BLM's NEPA Register, and a link to the NEPA Register was provided from the Winnemucca and Elko District's NEPA website.

The Elko District issued a news release on September 7, 2012, notifying the general public of the availability of the document for review, how to access the document, and where to submit comments. The news release was issued to a list of over 56 media sources in Nevada and California, 19 contacts with Nevada Congressional representatives, and 12 other interested parties. Among these was the Nevada State Clearinghouse which made the preliminary EA available for review by 50 different local, county, state, and federal agencies from around the state.

A NOPA letter was sent to 67 interested parties for activities within Wilderness Study Areas. Like the letter referred to in the preceding paragraph, the NOPA notified these individuals of how to access the EA and where to submit comments.

The BLM received over 5,184 comment submissions during the public comment period; more than 5,100 of those submissions were form letters. Form letters are generated from a singular website from a non-governmental organization, such as an animal advocacy group. Comments identified on the form letters were considered along with the rest of the comments received, but

as one collective comment letter. Form letters are not counted as separate comments due to their duplicative nature. However, where individuals added their own comments to the form, the personalized comments were considered as separately submitted comments. All comments received prior to the end of the public comment period were reviewed and considered. Substantive comments were utilized to finalize the EA as appropriate. Letters and e-mails were received both in support of and in opposition to the gather.

Although the BLM's review of public comments did not indicate that substantive changes to the conclusions presented in the preliminary EA were warranted, they did lead to changes throughout the document to better explain and clarify BLM's analysis in response to comments, which resulted in a more comprehensive and complete document. In finalizing the EA, the following information was updated:

- The September 2012 population inventory results were incorporated into the final EA. These results furthered the BLM's understanding of the current population conditions within the Complex. With the updated survey numbers, wild horse AUM calculations were also updated to reflect the current wild horse population numbers. This data was incorporated into Table 1. Owyhee Complex Information and Chapter 1.1 Background, Chapter 3.3.3 Affected Environment – Rangeland Management, and Chapter 3.3.8 Affected Environment – Wild Horses. Given the only slight increase in the population estimate (only 15 wild horses) no other changes based on the survey results were made.
- Chapter 1.1.1 October 2012 Site Assessment was added to describe worsening conditions on the ground observed during an October 2012 site visit with the BLM National Gather Priority Team.
- Native American Religious Concerns (Chapter 4.4.1) is updated to reflect information derived from the meeting held with the Fort McDermitt Paiute-Shoshone Tribe on September 17, 2012.
- Clarification in Chapter 2.1 Actions Common to Alternatives A-C of the BLM gather timing requirements, avoiding the six weeks that precede and follow the peak of foaling (mid-April to mid-May).
- This Public Involvement information (Chapter 8) was added.

Native American Consultation

Table 1 below outlines the consultation activities which were conducted in conjunction with this project. In an informational meeting held on September 17, 2012, with part of the Fort McDermitt tribal council, they voiced that the BLM should bring the wild horse population down to AML since the excess horses impacted their grazing allotments. They also felt that the BLM worries too much about the horse advocates and not enough about ranchers.

Table 1. Native American Consultation

Tribe	Date initial consultation letter was Mailed	Date Preliminary EA was Mailed	Date of Consultation Meeting
Battle Mountain Band Tribal Council	August 24, 2012	September 7, 2012	none
Fort McDermitt Paiute-Shoshone Tribe	August 24, 2012	September 7, 2012	September 17, 2012
Shoshone-Bannocks Tribe	August 24, 2012	September 7, 2012	none
Shoshone-Paiute Tribes of the Duck Valley Indian Reservation	August 24, 2012	September 7, 2012	none
Te-Moak Tribal Council	August 24, 2012	September 7, 2012	none

Section 7 Consultation

Section 7 consultation was completed with the U.S. Fish and Wildlife Service. A species list was requested on August 27, 2012, and received September 4, 2012 from the U.S. Fish and Wildlife Service (USFWS) in Reno, Nevada. A request for consultation and a Biological Assessment were submitted on September 17, 2012. A Letter of Concurrence was received via e-mail October 17, 2012, from the USFWS in Reno, Nevada.

AUTHORITY

The authority for this decision is contained in Section 3(b)(2) of the 1971 WFRBA, Section 302(b) of FLPMA of 1976, and at 43 CFR §4700.

43 C.F.R. §4700.0-6 Policy

- (a) Wild horse and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

43 C.F.R. §4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

43 C.F.R. §4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animal immediately in the following order.

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely gathered and made available for private maintenance in accordance with subpart 4750 of this title; and
- (c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this part.

43 C.F.R. §4740.1 Use of Motor Vehicles or Air-Craft

Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

43 C.F.R. §4770.3 Administrative Remedies

- (a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.
- (c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from the public or private lands in the situations where removal is required by applicable law or is necessary to preserve or maintain a thriving ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

APPEAL PROVISIONS

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals to the Board of Land Appeals." Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed form titled "Information on Taking Appeals to the Board of Land Appeals." The appellant has the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success of the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.401 (c) (2)).

/s/ Gene Seidlitz

Gene Seidlitz
District Manager
Winnemucca District

10/18/2012

Date

Attachments